

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS,
EASTERN DIVISION**

YASER AL-HASI,)	
)	
Plaintiff,)	Case No: FILED: JUNE 2, 2008
)	08CV3182 TG
v.)	Judge: JUDGE NORDBERG
)	MAGISTRATE JUDGE MASON
RUTH A. DOROCHOFF, in her official)	
capacity as District Director of United)	Magistrate Judge:
States Citizenship and Immigration)	
Services,)	
)	
Defendant.)	

COMPLAINT FOR WRIT OF MANDAMUS

Plaintiff Yaser Al-Hasi ("Plaintiff"), by and through his attorneys, the Law Offices of Kameli & Associates, P.C., respectfully requests an order directing Defendant Ruth A. Dorochoff ("Defendant") to adjudicate Plaintiff's Form I-485 Application to Adjust Status to Permanent Resident ("Form I-485"), and in support of thereof, states as follows:

JURISDICTION AND VENUE

1. This is a civil action brought pursuant to 28 U.S.C. § 1361 to redress the deprivation of rights, privileges, and immunities secured to Plaintiff, and to compel Defendant, an officer of the United States, to perform her duty owed to Plaintiff. Jurisdiction is proper pursuant to 28 U.S.C. § 1331, which provides "[t]he district courts shall have original jurisdiction of all civil actions arising under the Constitution, laws, or treaties of the United States." As this Court is a district court of the United States and this action arises under 28 U.S.C. § 1361, a law of the United States, this Court is conferred jurisdiction. Jurisdiction is additionally conferred upon this Court pursuant to the Administrative Procedure Act ("APA"), 5 U.S.C. §§ 555, 704, and 706.

2. Venue is proper under 28 U.S.C. § 1391(b), since Defendant is the District Director of United States Citizenship and Immigration Services (“USCIS”), an agency of the United States Department of Homeland Security, an agency of the United States Government, located at 101 W. Congress Parkway, Chicago, Illinois. Venue in the Northern District of Illinois is also proper under 28 U.S.C. § 1391(e), because a substantial part of the events or omissions giving rise to the claim occurred in this district, Plaintiff resides in this district, and no real property is involved in the action.

PARTIES

3. Plaintiff is a national and citizen of Jordan, assigned alien number A 74-538-422.

4. Defendant is the Chicago District Director of USCIS, an agency of the United States Department of Homeland Security. As such, she is charged with the duty of administration and enforcement of all the functions, powers, and duties of USCIS.

CLAIMS FOR RELIEF

5. On November 2, 2001, Plaintiff filed his Form I-485, seeking lawful permanent residence in the U.S. See Exhibit A.

6. On December 10, 2003, Plaintiff attended an interview at the Chicago, Illinois USCIS office in furtherance of his Form I-485. See Exhibit B. At this time no decision was made concerning Plaintiff’s Form I-485.

7. Plaintiff contacted USCIS to ascertain the status of his case on September 14, 2006. On September 20, 2006, USCIS sent a letter to Plaintiff stating that his case was still under further review. See Exhibit C.

8. Plaintiff acquired the assistance of U.S. Senator Richard Durbin to inquire as to the status of Plaintiff's Form I-485 in October of 2007. Exhibit D. Sen. Durbin's office informed Plaintiff that a background check was still pending. Id.

9. To date, it is upon Plaintiff's information and belief that no decision has been rendered concerning his Form I-485. As of the date of this Complaint, it has been over six years and five months since Plaintiff filed his Form I-485 and over four years and four months since Plaintiff's interview occurred.

10. A USCIS Interoffice Memorandum issued by Associate Director of Domestic Operations Michael Aytes on February 4, 2008, states "[w]here the application is otherwise approvable and the FBI name check request has been pending for more than *180 days*, the adjudicator *shall* approve the I-485, I-601, I-687, or I-698 and proceed with card issuance." (emphasis added).

11. Defendant has violated her mandatory duty to issue a card to Plaintiff since Plaintiff's background check has been pending for more than 180 days.

12. This Court has consistently held that 8 U.S.C. § 1255, which governs the adjustment and change of status of aliens, provides an alien with the right to have an application for adjustment of status adjudicated and imposes a duty upon the Attorney General to adjudicate such cases within a reasonable time. Abdel Razik v. Perryman, 2003 U.S. Dist. LEXIS 13818 (N.D. Ill. 2003); (citing Iddir v. INS, 301 F.3d 492, 500 (7th Cir. 2002); Krishnamoorthy v. Ridge, 2003 U.S. Dist. LEXIS 8381 (N.D. Ill. 2003); Setharatsomphou v. Reno, 1999 U.S. Dist. LEXIS 14839 (N.D. Ill. 1999); Paunescu v. INS, 76 F. Supp. 2d 896, 901 (N.D. Ill. 1999).

13. Further, "a petitioner has a right to adjudication of . . . [an] adjustment of status application and . . . [USCIS] has a corresponding duty to adjudicate these applications."

Krishnamoorthy v. Ridge, 2003 U.S. Dist. LEXIS 8906, 9 (N.D. Ill. 2003); Setharatsomphou v. Reno, 1999 U.S. Dist. LEXIS 14839, (N.D. Ill. 1999) (citation omitted). This duty is mandatory, not discretionary. Krishnamoorthy, 2003 U.S. Dist. LEXIS 8906 at 9; Paunescu, 76 F. Supp.2d at 901. Therefore, Defendant has a clear duty to adjudicate Plaintiff's Form I-485 Application to Adjust, and to do so within a reasonable time of the initial filing.

14. 28 U.S.C. § 1361 grants district courts "jurisdiction of any action in the nature of mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff." Mandamus jurisdiction can be invoked when: (1) the plaintiff has a clear right to the relief sought; (2) the defendant has a clear duty to perform; and (3) no other adequate remedy is available. Iddir, 301 F.3d at 499.

15. Here, Plaintiff has a clear right to the relief sought as his Form I-485 Application to Adjust has been pending for a period in excess of 79 months. This delay is unreasonable, and thus a violation of Plaintiff's rights under 8 U.S.C. § 1255. Moreover, Defendant has a clear duty to perform given that this Court has consistently held USCIS' duty to adjudicate adjustment of status applications is mandatory rather than discretionary. See Kamal v. Gonzales, 2008 U.S. Dist. LEXIS 15942; Krishnamoorthy, 2003 U.S. Dist. LEXIS 8906 at 9; Paunescu, 76 F. Supp.2d at 901.

16. In addition, there is no other adequate remedy for relief available to Plaintiff. He can in no way compel the adjudication of his Form I-485 Application to Adjust except by means of this current mandamus action. Moreover, there is no action that Plaintiff can take at the administrative level until this adjudication has taken place. Plaintiff has thus exhausted any administrative or other legal remedies that may exist.

17. Finally, Defendant, in violation of the Administrative Procedure Act, 5 U.S.C. § 706, is unlawfully withholding or unreasonably delaying a decision on Plaintiff's Application, and has thus not completed the adjudicative functions delegated to her by the laws of the United States with regard to said Application.

WHEREFORE, Plaintiff Yaser Al-Hasi respectfully requests this Honorable Court grant the following relief:

- (a) Compel Defendant and those acting under her to perform their duty to rule upon Plaintiff's pending Form I-485 Application to Adjust;
- (b) Grant attorney's fees and costs of court; and,
- (c) Grant any and all other relief this Court deems fair and just.

Respectfully submitted,
KAMELI & ASSOCIATES, P.C.

John R. Floss
/s/John R. Floss/

111 E. Wacker Street, Suite 555
Chicago, Illinois 60601
312.233.1000 – phone
312.233.1007 – facsimile

DATED: May 30, 2008

08CV3182 TG
JUDGE NORDBERG
MAGISTRATE JUDGE MASON



Immigration & Naturalization Service
10 West Jackson Boulevard
Chicago, Illinois 60604

11/29/01
A 74 538 422

YASER AL-HASI
6861 W. LELAND AVE., APT 2
HARWOOD HEIGHTS, IL 60706

Dear Applicant,

We have received your application for lawful permanent residence in the United States. Your receipt date is **11/02/01**. We currently have approximately 18 months from receipt date to interview.

You will receive a notice for your fingerprints, and subsequently a letter for interview approximately two months prior to your appointment date. The appointment letter will advise you what is needed at the time of interview.

FURTHER:

- A) If you applied as a family, all members of the family must be present at the interview.
- B) If you are a diversity lottery winner, and do not receive an appointment for prints and interview one month after receipt of this letter, contact the office immediately, make a copy of this letter, and explain that you are a DV case and have not received your appointment for interview. Your adjustment must be completed before September 30th of the filing year.
- C) If you are filing as a child, under 21 years of age, and will reach your 21st birthday before the normal backlog period is reached, please notify this office IMMEDIATELY, in order that the application can be processed timely.

If you have filed a request for employment authorization you must appear in person at our office on 01/15/01 at 10:20AM. Bring this letter, your receipt of payment and personal identification. Please make every attempt to keep this appointment. **Please report to Booth 15 on the 2nd floor.** It is important to bring your driver's license/State I.D., passport, marriage license, if married, to establish identity. Also remember to bring the original **Receipt** (no copies) with you letter.

Since you have an application for adjustment pending and need to travel outside of the United States, you must file form I-131. Permission to travel is not an automatic grant. If at the time you file the application for residency, you were out of status or illegally in the United States for 6 months or longer, advance parole **WILL NOT BE GRANTED**. If the application is filed and you are denied, the filing fee is not refundable.

If you do not fall into either category B or C, please do not inquire about the status of your application prior to the backlog period mentioned. It will only further delay the processing time. Any **ADDRESS CHANGES** should be mailed with a copy of this letter to U.S. INS, P.O. Box A3462, Chicago, Illinois 60690-3462.

Sincerely

Brian R. Perryman
District Director



08CV3182

TG

JUDGE NORDBERG

MAGISTRATE JUDGE MASON

DEPARTMENT OF HOMELAND SECURITY
BUREAU OF CITIZENSHIP & IMMIGRATION SERVICES

*539 South LaSalle Street.
Chicago, Illinois 60605*

DATE: October 30, 2003

FILE NUMBER: A74538422

YASER I. AL HASI
6861 W. LELAND AVENUE APT 2
HARWOOD HGTS IL 60706

3

APPOINTMENT NOTICE

You are scheduled for an interview on your application, I-485 to adjust status to that of lawfully admitted for permanent residence. Please appear at the INS Office, 230 South Dearborn Street, 2nd Floor, Chicago, IL on 12/10/2003 at 1:00:00 PM.

Please read this notice carefully and follow the instructions below:

- Comply with the attached "ADJUSTMENT INTERVIEW DOCUMENTARY REQUIREMENTS"
- Your petitioner must accompany you to the interview.
- You must bring evidence of your legal entry into the United States including your passport and form I-94. You and your petitioner must bring photo identification. If your petitioner is a Permanent Resident, he or she must bring their Alien Registration Card.
- If you do not speak English, an adult (other than a family member), who can act as an interpreter, must accompany you to the interview. If you require a sign language interpreter please notify us immediately at TDD (312) 385-1813.

Failure to appear for the scheduled interview will be deemed an abandonment of the application and will result in a denial of the application pursuant to 8 CFR 103.2(b)(13). Also, failure to bring the documents requested of you as indicated on the attached "Adjustment Interview Documentary Requirements" may result in denial of the application due to lack of prosecution.

Sincerely,

Donald J. Monica
Interim District DirectorMYERS & MYERS
5875 N. LINCOLN AVE., SUITE 244
CHICAGO, IL 60659

08CV3182 TG
JUDGE NORDBERG
MAGISTRATE JUDGE MASON

U.S. Department of Homeland Security

101 West Congress Parkway
Chicago, IL 60605



U.S. Citizenship
and Immigration
Services

Yaser Alhasi
16533 S. Nottingham Ct
Lockport, IL 60441

September 20, 2006

Re: A74 538 422

Dear Mr. Alhasi,

This is in response to your inquiry dated September 14, 2006. Our records indicate that your case is under further review by the adjudicating officer. All evidence submitted by you in support of the application and/or petition for the immigration benefit being sought is being examined.

Cases may require additional review for a variety of reasons. When it is in the interest of upholding the United States immigration laws both in terms of enforcement and rights to privacy, that information may not be disclosed. It is difficult to predict with accuracy when this review will be completed. Every effort is being made to render an accurate and final decision in a timely manner. We ask that you allow at least 90 days for a response before inquiring again.

We thank you for your understanding and patience.

Sincerely,

A handwritten signature in cursive script, appearing to read "Ruth A. Dorochoff".

Ruth A. Dorochoff
District Director

RAD:ems



JUDGE NORDBERG

MAGISTRATE JUDGE MASON

Love, Kai (Durbin)

From: Hardy, Gwendolyn [REDACTED] on behalf of CHI-Congressional [REDACTED]
Sent: Tuesday, October 30, 2007 9:36 AM
To: Love, Kai (Durbin)
Subject: RE: A 074 538 422 Yaser Alhasi

The Honorable Richard J. Durbin
U.S. Senator
230 South Dearborn, Suite 3892
Chicago, IL 60604
Attn: Kai A. Love

October 30, 2007

A74-538-422 Yaser Alhasi

Dear Senator Durbin:

United States Citizenship and Immigration Services (USCIS) are committed to adjudicating immigration benefits in a timely manner while also ensuring public safety and national security. Though background checks for most applications or petitions are completed very quickly, a small percentage of cases have unresolved background check issues that temporarily delay adjudication of the application or petition. Although USCIS makes every effort to resolve such cases promptly, the agency cannot move forward until all outstanding issues have been resolved to our satisfaction. Unfortunately, this process can sometimes take years.

The background checks involve more than just the initial submission of biographical information or fingerprints and the initial response. If these checks and/or a review of the administrative record reveal an issue potentially impacting an applicant's eligibility for the requested immigration benefit, further inquiry is needed. The inquiry may include an additional interview and/or the need to contact another agency for updates or more comprehensive information. If it is determined that an outside agency possesses information relevant to the applicant's background, USCIS asks that agency to share any relevant information for consideration by USCIS in the adjudication. Upon gathering and assessing all available information, USCIS will adjudicate the application as expeditiously as possible.

We have checked into your constituent's case and have been assured that the agency is aware of your inquiry and is monitoring progress of the case.

USCIS realizes that your constituent may be frustrated by the progress of his or her case, but the agency must balance individual inconvenience against broader issues of public safety and national security. We hope that the recognition that your constituent's case has not been forgotten lessens any anxiety stemming from the delay in the adjudication.

We hope the information provided is helpful. If we may be of assistance in the future, please let us know.

Sincerely,

10/30/2007



RICHARD J. DURBIN
ILLINOIS

COMMITTEE ON APPROPRIATIONS

COMMITTEE ON THE JUDICIARY

COMMITTEE ON RULES
AND ADMINISTRATION

ASSISTANT MAJORITY
LEADER

United States Senate
Washington, DC 20510-1304

November 27, 2007

309 HART SENATE OFFICE BUILDING
WASHINGTON, DC 20510-1304
(202) 224-2182
TTY (202) 224-8180

230 SOUTH DEARBORN, 38TH FLOOR
CHICAGO, IL 60604
(312) 353-4952

525 SOUTH EIGHTH STREET
SPRINGFIELD, IL 62703
(217) 492-4082

701 NORTH COURT STREET
MARION, IL 62958
(815) 998-8012

durbin.senate.gov

Mr. Yaser Alhasi
16533 S. Nottingham Ct.
Lockport, IL 60441

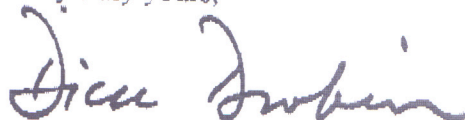
Dear Mr. Alhasi:

I have received the enclosed response from the USCIS, regarding my office's inquiry on your behalf.

I trust that we have been of service to you.

Please feel free to contact my office again if we can assist you in other matters of federal concern.

Very truly yours,



Richard J. Durbin
United States Senator

230 South Dearborn St.
Suite 3892
Chicago, Illinois 60604
312/353-4952

RJD/kl